

maintaining railroads for a crossing, the dispatching railroad (or, if more than one railroad dispatches a train through the crossing, the primary dispatching railroad for the crossing under paragraph (a) of this section) upon receipt of a report of an unsafe condition, shall promptly contact and inform the appropriate maintaining railroad(s) for the crossing of the reported problem. After each maintaining railroad for the crossing receives a report of an unsafe condition at the crossing that pertains to its maintenance responsibilities for the crossing, the maintaining railroad shall carry out the remedial action required by § 234.305 and the recordkeeping required by § 234.313.

§ 234.307 Use of third-party telephone service by dispatching and maintaining railroads.

(a) *General use of a third-party telephone service by a dispatching railroad.* A dispatching railroad may use a third-party telephone service to receive reports of unsafe conditions at highway-rail and pathway grade crossings pursuant to § 234.303. If a dispatching railroad chooses to use a third-party telephone service, the third-party telephone service shall be reached directly and promptly by the telephone number displayed on the ENS sign pursuant to § 234.309. The third-party telephone service may use an automated answering system for the purpose of receiving such reports. The dispatching railroad shall have a live person answer calls directly and promptly from the third-party telephone service, unless permitted pursuant to § 234.303(b) to use an answering machine. The dispatching railroad shall ensure that the third-party telephone service complies with the applicable requirements of § 234.307.

(b) *General use of a third-party telephone service by a maintaining railroad.* Pursuant to § 234.305(h)(2), a maintaining railroad that either maintains a highway-rail or pathway grade crossing on a seasonal or intermittent basis (e.g., tourist, biweekly service, or non-24 hours service), or a crossing through which a railroad dispatches one or more trains, each of which is authorized to travel through the crossing at speeds not greater than 20 mph, may

use a third-party telephone service to receive reports of unsafe conditions at such a crossing from a dispatching railroad. The third-party telephone service may use an automated answering system for the purpose of receiving such reports. The maintaining railroad shall receive reports from the third-party telephone service by either having a live person answer calls directly and promptly, or using an answering machine. If using an answering machine pursuant to this paragraph, the railroad must use the answering machine in accordance with § 234.305(h)(2). The maintaining railroad shall ensure that the third-party telephone service complies with the applicable requirements of § 234.307.

(c) *Duties of third-party telephone service in contacting dispatching and maintaining railroads.* Upon receiving a report pursuant to §§ 234.303 or 234.305, on behalf of either the dispatching railroad or maintaining railroad, respectively, the third-party telephone service shall immediately contact the railroad, and, at a minimum, provide it with the following information:

- (1) The nature of the reported unsafe condition;
- (2) The location of the unsafe condition, including the U.S. DOT National Crossing Inventory number for the crossing;
- (3) Whether the person reporting the unsafe condition is a railroad employee, law enforcement officer, highway traffic official, or other employee of a public agency acting in an official capacity;
- (4) The date and time that the report was received by the third-party telephone service; and
- (5) Any additional information provided by the caller that may be useful to restore the crossing to a safe condition.

(d) *Duties of railroad using third-party telephone service.* If a dispatching or maintaining railroad uses a third-party telephone service to receive reports of unsafe conditions at a highway-rail or pathway grade crossing, the railroad shall—

§ 234.309

49 CFR Ch. II (10–1–12 Edition)

(1) Provide the third-party telephone service with sufficient contact information by which the third-party telephone service may immediately contact the railroad upon receipt of a report;

(2) Inform FRA in writing, before the implementation of such a service, of the railroad's intent to use a third-party telephone service, and provide FRA with contact information for the third-party telephone service and information identifying the highway-rail and pathway grade crossings about which the third-party telephone service will receive reports;

(3) Inform FRA in writing within 30 days following any changes in the use or discontinuance of a third-party telephone service; and

(4) Take appropriate action required by § 234.305, upon being contacted by the third-party telephone service about a report.

(e) *Third-party telephone service and railroad responsibilities.* If a railroad uses a third-party telephone service to receive reports pursuant to §§ 234.303 or 234.305, the third-party telephone service is responsible for carrying out the duties of this section and record-keeping duties under § 234.313, and, if applicable under § 234.315. In addition, the railroad remains responsible for any acts or omissions of the third-party telephone service it utilizes that violate the provisions of this section or the recordkeeping requirements under § 234.313, and, if applicable under § 234.315.

§ 234.309 ENS signs in general.

(a) *Provision of information.* If the dispatching railroad and the maintaining railroad(s) are not the same entity, the dispatching railroad for a highway-rail or pathway grade crossing shall provide to the maintaining railroad the telephone number that is to be displayed on the ENS sign at the crossing, not later than 180 calendar days before the date that implementation of an ENS is required.

(b) *Information to be displayed.* Each ENS sign located at each highway-rail or pathway grade crossing as required by § 234.311 shall display the necessary information for the dispatching railroad to receive reports of unsafe condi-

tions at the crossing. This information, at a minimum, includes the following:

(1) The toll-free telephone number (or non-toll-free telephone number as provided for in § 234.303(e)) established to receive reports pursuant to § 234.303(a);

(2) An explanation of the purpose of the sign (*e.g.*, “Report emergency or problem to _____”); and

(3) The U.S. DOT National Crossing Inventory number assigned to that crossing.

(c) *Sign size and other physical features.* Each ENS sign shall—

(1) Measure at least 12 inches wide by 9 inches high;

(2) Be retroreflective;

(3) Have legible text (*i.e.*, letters and numerals) with a minimum character height of 1 inch for the information required in paragraph (b) of this section; and

(4) Have white text set on a blue background with a white border, except that the U.S. DOT National Crossing Inventory number may be black text set on a white rectangular background.

§ 234.311 ENS sign placement and maintenance.

(a) *Number of signs at highway-rail or pathway grade crossing.* (1) *In general.* The maintaining railroad, or the railroad appointed pursuant to § 234.306(b), for a highway-rail or pathway grade crossing shall place and maintain a sign on each approach to the crossing that conforms to § 234.309, except as provided in paragraph (a)(2) of this section.

(2) *Exceptions.* (i) At a farm grade crossing, the responsible railroad shall place and maintain a minimum of one sign that conforms to § 234.309 at the crossing.

(ii) At a railroad yard, port or dock facility, or a private industrial facility that does not meet the definition of “plant railroad” in § 234.5, the responsible railroad shall place and maintain a minimum of one sign at each vehicular entrance to the facility in accordance with § 234.309, in lieu of placing signs at each crossing within the yard, port or dock facility, or private industrial facility. Each sign must be placed so that it is clearly visible to a driver of a motor vehicle located at the vehicular entrance to the facility.